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C O N F I D E N T I A L SEOUL 003899

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SUBJECT: ROKG IMPLEMENTATION OF UNSCR 1718: TEXT OF REPORT  
TO SANCTIONS COMMITTEE

**¶11. (SBU) SUMMARY:** The Ministry of Foreign Affairs and Ministry of Unification jointly announced at 1500 on November 13 the ROKG "Report of the Republic of Korea on the Implementation of United Nations Security Council Resolution 1718 (2006)." The twelve-page report (see text below) comprises an introduction (section I), a description of the ROK's existing export control system including measures focused on the DPRK (sections II and III), and a main section describing actions taken or to be taken to enforce paragraph 8 of UNSCR 1718 (section IV). Based on a preliminary review, the report appears to encompass relatively minor changes to existing ROK procedures and regulations in response to UNSCR ¶1718. It states that the Ministry of Unification is still drawing up its list of luxury goods whose trade will be restricted.

**¶12. (C) COMMENT:** In a meeting with CDA before the ROKG's announcement on UNSCR 1718, Dr. Park Sun-won, Secretary to the President for National Security Strategy, said that he understood that from the USG point of view the steps the ROKG was taking in line with UNSCR 1718 would be seen as insufficient. He stressed, however, that South Korea's unilateral actions to date (outside of UNSCR 1718) toward the North in response to the missile tests were significant: South Korea had suspended provision of 380 million USD worth of rice and fertilizer, the transfer of railroad and road materials and equipment, the provision of light industrial materials valued at 80 million USD, and halted implementation of a riverbank sand mining project. Park insisted that the aggregate value of all of these suspended projects with the North exceeded the impact of steps that either Japan or China had taken in response to UNSCR 1718. That argument -- that the ROKG's post missile-launch actions were large enough that there was little left to do after the October 9 nuclear test -- is familiar, but Park also hinted (on a strictly confidential basis) that the ROKG will this week announce a major change in its human rights policy toward North Korea that would represent a significant change in North-South policy. We await that announcement with interest. END SUMMARY AND COMMENT.

**¶13. (U) Begin Text:**

Report of the Republic of Korea on the Implementation of United Nations Security Council Resolution 1718 (2006)

**¶II. Introduction**

The government of the Republic of Korea (ROK) is committed to faithfully implementing United Nations Security Council Resolution (UNSCR) 1718 and to rendering full cooperation to the Committee established pursuant to OP 12 of the Resolution.

Prior to the adoption of UNSCR 1718, the ROK government already had in place a range of legislative and executive measures that ensure compliance with the requirements of UNSCR 1718. In addition, it has been conducting a thorough review of its policies with a view to identifying further steps that may be needed to ensure full implementation.

For that purpose, the ROK government established an Inter-Ministerial Task Force comprising 14 ministries and government agencies co-chaired by the Deputy Minister for Policy Planning and International Organizations of the Ministry of Foreign Affairs and Trade and the Deputy Minister for Unification Policy and Public Relations of the Ministry of Unification. Beginning with its first meeting on 24 October, the Task Force has convened on a regular basis to collect information on the various measures that the respective ministries and agencies are taking in relation to UNSCR 1718 as well as to identify loopholes in the implementation system and find ways to better implement UNSCR 1718.

**II. Export Control System of the Republic of Korea**  
The Republic of Korea is a member of all international non-proliferation and export control regimes relating to nuclear, chemical and biological weapons, missiles and conventional weapons, such as the Nuclear Suppliers Group (NSG), the Missile Technology Control Regime (MTCR), the Australia Group (AG), the Zangger Committee (ZC) and the Wassenaar Arrangement (W A). Through participation in these multilateral regimes the ROK has been implementing strict export and import controls over WMD, missiles, other weapons and related materials in conformity with international standards.

(omitted: Table 1. ROK's Membership in Export Control Regimes)

Major laws and regulations on export controls include the Foreign Trade Act, Technology Development Promotion Act, Atomic Energy Act, Defence Industry Act, South-North Exchanges and Cooperation Act, and their related regulations. The Combined Notice of Export/Import of Strategic Items and Technologies covers all controlled items from the five multilateral export control regimes, and provides for detailed export control regulations, specification of controlled items, and guidelines for catch-all controls.

(omitted: Table 2. Export Control-related Laws)

The ROK government established its export control system for strategic items in 1992. The system has been strengthened and expanded over the years. Since January 2003, the catch-all system, which controls the export of non-controlled items and technologies that could be used for the development of weapons of mass destruction, has been in force. Furthermore, a comprehensive revision of the Foreign Trade Act was undertaken in September 2003, and the Combined Notice of Export/Import of Strategic Items and Technologies was wholly amended in October 2004 so as to fully meet international levels.

In light of the increasing importance of the issue worldwide, the Ministry of Commerce, Industry and Energy (MOCIE) established the Strategic Items Control Division in February 2004 to reinforce the export control of strategic items.

Furthermore, the Strategic Trade Information Center (STIC), a special organization affiliated with the Korea International Trade Association, was established in August 2004 to assist companies in the conduct of business related to strategic items. The STIC is entrusted by the government with the task of conducting preliminary reviews of strategic items. The Center operates an on-line Strategic Trade Information System jointly with MOCIE to assist companies in exercising voluntary export controls by providing relevant information on-line regarding preliminary reviews, export licensing procedures, global trends and domestic regulations governing strategic items.

To strengthen the controls on sensitive technology, the Ministry of Science and Technology is currently revising the Technology Development Promotion Act and its related decree to provide a legal basis for controlling intangible technology transfers (ITT). The revision is expected to come into force by June 2007.

### III. Export Control with regard to the DPRK

ROK nationals are generally prohibited from supplying and transferring commodities as well as weapons to the Democratic People's Republic of Korea (DPRK) based on the National Security Act which has been in force since December 1948.

However, since 1990 the ROK government has allowed commodities to be taken out to the DPRK with the permission of the Minister of Unification when deemed necessary for the promotion of mutual exchanges and cooperation between South and North Korea. In order to regulate related procedures, the South-North Exchanges and Cooperation Act and its related decree and regulation were enacted in August 1990.

Pursuant to the South-North Exchanges and Cooperation Act, its related decree and regulation, the approval of the Minister of Unification is required to take controlled items out to the DPRK. If a person obtains approval to take out strategic items to the DPRK in a fraudulent or dishonest manner or takes them out without approval, he or she is subject to imprisonment of up to three years or a fine of up to ten million won, which is equivalent to US\$ 11,000.

For non-listed items, the ROK government has applied catch-all controls. For example, in 2005 it refused to approve the transfer of 26 items, including fermenters and freeze-drying equipment, requested by the DPRK in relation to their efforts to prevent the spread of Avian Influenza, in light of the possibility of the conversion of the items for WMD use.

Furthermore, the ROK government has imposed stricter customs control on items taken out to the DPRK. The Public Notice on Customs Clearance in South-North Trade gives clear guidance in this regard.

### IV. Implementation

(omitted: citation of text of UNSCR 1718 OP 8(a))

(Action taken and/or to be taken)

#### -Controlled Items

To control the items specified in UNSCR 1718, the Ministry of Unification is revising its Public Notice of the List of Goods for Approval for Taking-to or Bringing-from the DPRK, and the Public Notice on the List of Goods Banned for South-North Visitors and the Disposal of Such Goods. The Ministry of Construction and Transportation will also incorporate the controlled items under UNSCR 1718 into the list of prohibited items in the Guidelines on Approval of Aircraft Passing through the Territorial Airspace under the Aviation Act.

The Ministry of Unification is also drawing up a list of luxury goods. Once the list is finalized, the Ministry will revise the above-mentioned Public Notices.

The main items brought in from the DPRK to the ROK are currently agricultural and fishery products, and metal products, while those taken to the DPRK are principally textile goods, and agricultural and fishery products.

#### -Strengthened Customs Clearance Procedure

Following the adoption of UNSCR 1718, the ROK government is in the process of strengthening the customs clearance procedure under the Public Notice on Customs Clearance in South-North Trade in order to ensure that no controlled items will be taken out to the DPRK. In this regard, emphasis will be put on those commodities taken to the DPRK through land routes.

#### -Prevention of Supply, Sale or Transfer by ROK Nationals

In order to prevent trade in items prohibited by UNSCR 1718, the Ministry of Unification will strictly enforce the requirement of prior permission for nationals of the ROK wishing to contact a national or an entity of the DPRK or visit the DPRK.

Under the South-North Exchanges and Cooperation Act, to contact any DPRK national, an ROK national must report to the Minister of Unification in advance indicating the details of that contact. A national of the ROK or the DPRK must obtain permission from the Minister of Unification to visit the other side.

The Ministry of Commerce, Industry and Energy (MOCIE) is presently in the process of revising the Foreign Trade Act in order to have the brokering of controlled items subject to the prior approval of the government.

Additionally, the persons and entities to be designated by the 1718 Committee pursuant to OP 8(d) will be added to the MOCIE's Database List of Persons and Entities Not Suitable for Export of Strategic Items.

#### -Prevention of Supply, Sale or Transfer through ROK Territory

There is no air route that allows airplanes to fly from or to the DPRK through any part of the territorial airspace of the Republic of Korea. An aircraft which arrives from or departs for the DPRK, suspected of carrying controlled items pursuant to UNSCR 1718, will not be allowed to fly through the territorial airspace of the ROK.

Regarding a vessel of a third country which is in the territorial waters of the ROK and suspected of carrying controlled items as designated by OP 8(a) of UNSCR

1718, the ROK government will take relevant action according to the Territorial Sea and Contiguous Zone Act.

(omitted: citation of UNSCR 1718 OP 8(c))

(Action taken and/or to be taken)

The ROK government is currently revising the Regulation on South-North Economic Cooperative Projects and the Regulation on South-North Socio-Cultural Cooperative Projects to prevent any transfers of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in OP 8(a)(i) and OP 8(a)(ii).

The ROK government will reinforce its review process with regard to the requirement of prior permission for ROK nationals wishing to contact a national or entity of the DPRK or visit the DPRK under the South-North Exchanges and Cooperation Act.

Prior to their departure for the DPRK, the Ministry of Unification briefs visitors on activities prohibited during their stay in the DPRK.

(omitted: citation of UNSCR 1718 OP 8(d))

(Action taken and/or to be taken)

The ROK government has drafted a new integrated public notice and is ready to take necessary action in accordance with OP 8(d) of UNSCR 1718 once the 1718 Committee or the Security Council designates the persons or entities under OP 8(d).

(omitted: citation of UNSCR 1718 OP 8(e))

(Action taken and/or to be taken)

-DPRK Nationals

For ROK nationals, contact with DPRK nationals or visits to the DPRK are generally prohibited under the National Security Act. For nationals of the DPRK, the ROK government controls entry into the territory of the ROK through the review of applications for a visit permit.

ROK nationals crossing the border to the DPRK and DPRK nationals crossing over to the ROK with the visit permits are subject to border screening procedures under the South-North Exchanges and Cooperation Act.

-Foreigners

The ROK government will revise the Entry Control List of the Immigration Control Act so that foreigners to be designated as persons stipulated in OP 8(e) are denied entry into or transit through the territory of the Republic of Korea.

(omitted; citation of UNSCR 1718 OP 8(f))

(Action taken and/or to be taken)

-Inspection of Land Cargo

The ROK government has been inspecting cargo going to or coming from the DPRK in accordance with the Public Notice on Customs Clearance in South-North Trade.

Following the adoption of UNSCR 1718, emphasis will be put on those commodities taken to the DPRK through land routes.

-Inspection of Sea Cargo

As a peace regime has not yet been established on the Korean Peninsula following the end of the Korean War, the ROK government does not recognize the right of innocent passage in its territorial waters for DPRK vessels, either commercial or non-commercial, except for those granted permission under the South-North Agreement on Maritime Transportation (hereinafter referred to as "the Agreement").

Maritime transportation between the ROK and the DPRK is currently governed by the above-mentioned bilateral Agreement which entered into force on August 1, 2005. Through the Agreement, the ROK and the DPRK have designated sea lanes between some ports of the two sides, allowed vessels of one side to navigate in the sea lanes with prior permission from the other side, and given commercial vessels of the other side the same treatment in their ports as they grant to their own vessels. The sea lanes thus designated in the Annex to the Agreement lie well beyond the outer limits of either side's territorial seas except for the Jeju Channel between the Korean Peninsula and Jeju Island, where a sea lane of approximately 41 miles cuts through the territorial waters of the Republic of Korea.

Pursuant to the Annex to the Agreement, DPRK vessels which plan to navigate through the maritime areas under ROK control shall submit an Application Form for Navigation (indicating the names of the crew and passengers as well as a list of the cargo) to the ROK maritime authorities three days prior to their departure (Article 1 (1) of the Annex). During their passage through the waters under ROK control, such DPRK vessels shall not engage in, inter alia, transportation of "weapons or any parts thereof" or "undermine peace, public order or security of the other Party by acts irrelevant to the navigation" (Article 2 (6) of the Annex). Pursuant to the Agreement, any vessel in breach of Article 2 (6) of the Annex, refusing to respond to radio enquiries or suspected of fleeing or undertaking any unauthorized deviation from designated sea lanes may be subject to such measures as stopping, boarding or inspecting for verification by the maritime authorities (Article 2 (8) of the Annex). If the vessel in question is found to have violated the Annex, the maritime authorities may caution the vessel, take corrective actions, or demand that the vessel leave the sea lane immediately (Article 2 (9) of the Annex).

Bearing in mind the letter and spirit of UNSCR 1718, the ROK government is committed to not granting a navigation permit under the South-North Agreement on Maritime Transportation to any DPRK vessel carrying on board or suspected of carrying any items prohibited under UNSCR 1718.

Consistent with the Agreement and its Annex, the ROK authorities stand ready to take any necessary steps, including stopping, boarding, and inspecting of any DPRK vessel passing through ROK-controlled maritime areas which has been granted a permit under the Agreement but is suspected of breaching the Agreement, in particular by shipping weapons or their parts. If the ship is found to be carrying weapons and/or their parts, or is in any other violation of the Agreement, the ROK authorities will take all necessary measures as appropriate to the specific circumstances, in accordance with the Agreement.

End Text  
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